



In the United States Patent and Trademark Office

Applicant: Paul E. Johnson  
Serial No.: 09/804,522  
Filed: March 12, 2001  
For: LED Illuminated Particle Detection  
Apparatus and Methods

Examiner: A. Lavarias  
Group: 2872  
Date: December 18, 2002

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DEC 31 2002  
TECHNOLOGY CENTER 2800

AFFIDAVIT UNDER 37 CFR Section 1.131

State of Wyoming

County of Albany

I, Paul E. Johnson, being duly sworn depose and say:

That I am the sole inventor for the above-identified patent application;

That I conceived in the United States the invention claimed in the above identified patent application prior to July 7, 2000, the filing date of the cited U.S. Patent No 6,372,895 to Bentsen et al. The invention was originally conceived in an earlier embodiment on May 3, 1999. Attached Exhibit A is a lab notebook with entries regarding work on this invention from May 3, 1999 to October 1, 1999. The invention was conceived in its current preferred embodiment at least by October 12, 1999. Attached Exhibit B is a letter dated September 30, 1999 to my patent attorney at that time, J. Winslow Young. Attached Exhibit C is a second letter to Mr. Young dated October 12, 1999. Exhibit B discusses the advantages of using an LED in cytometry. Exhibit C includes a drawing showing all of the elements of the preferred embodiment of the invention (i.e. a modified LED adjacent to a ball lens for collecting the majority of the light from the LED, and a conventional lens spaced apart from the ball lens, for focussing the light into the flow sample stream). Refer to Figure 2 of the present application, and claims 1-3;

That pursuant to this conception, I worked diligently to reduce the invention to practice from May 3, 1999, to October 12, 1999. Exhibit A includes lab notebook entries regarding work on this invention from May 3, 1999 to October 1, 1999;

That I pursued funding for this invention from May 3, 1999 until NSF funding was received June 15, 2000;

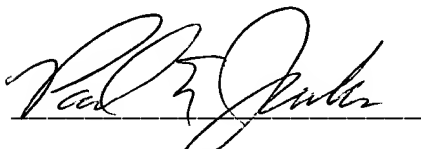
That I resumed diligent efforts to reduce the invention to practice from April 4,

2000, prior to July 7, 2000, the filing date of the cited U.S. Patent No 6,372,895 to Bentsen et al., and continued such diligent efforts until the date of filing of the above referenced application. Attached Exhibit D is a purchase order for LEDs for this project, dated April 4, 2000. Exhibits E and F are emails regarding work being pursued in anticipation of the NSF grant and under the NSF grant. Exhibit G is a work plan distributed to my employees covering the work being performed and to be performed on this invention between June 15, 2000 to June 15, 2001. Exhibits H through L are copies of lab notebooks relating to this conception wherein meetings discussing the use of LEDs in cytometry are discussed, experiments are designed, and experimental data is recorded. Exhibits H and I are my lab notebooks including entries regarding work done on the present invention between September 5, 2000 and January 17, 2002. Exhibits J-L are lab notebooks of several of my lab assistants including entries for work done on the present invention between September 21, 2000 and February 15, 2002;

That I urged my initial patent attorney to proceed quickly with a patent application for the present invention starting before August 1, 2000, and that due to his heavy workload I hired my present attorney, Jennifer L. Bales, to file an application for the present invention on February 21, 2001. Attached Exhibit M is an email regarding hiring a new attorney, and Attached exhibit N is an email engaging the new attorney, Jennifer L. Bales;

That a patent application (Ser. No. 09/804,522) was filed for the present invention on March 12, 2001, constructively reducing the invention to practice;

That Exhibits A-N, which relate to the aforementioned conception, diligent efforts to reduce the invention to practice, and constructive reduction to practice, correspond to the invention broadly disclosed and claimed in the above-identified patent application.

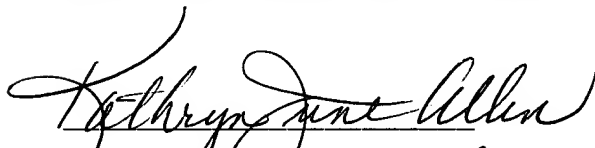


Paul E. Johnson

12/21/02

Date

Sworn and subscribed to before me this 21<sup>st</sup> day of December, 2002.



Notary Public

*My commission expires February 11, 2006*

